

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:11-00194
)	JUDGE CAMPBELL
JESSIE LEE ALLEN, et al.)	

ORDER

The Court held a status conference in this case on September 10, 2012. At the status conference, the parties discussed Defendant Benson's Motion To Continue Trial Date (Docket No. 658). Through the Motion, Defendant Benson seeks to continue the trial in this case, currently set for October 9, 2012, because counsel was appointed as substitute counsel on August 13, 2012, and additional charges have been brought against Defendant Benson through the Third Superseding Indictment, which was issued on August 16, 2012. In addition, counsel for Defendant Benson indicates that the case involves voluminous discovery, and he needs additional time to review the discovery with the Defendant, and to consider the filing of pretrial motions.

Defendants Allen and Kevin Thompson, along with the Government, indicated that they did not object to the request for a continuance. Defendants Jackson, Smith, and Maurice Thompson indicated that they did object to a continuance. In addition, Defendant Smith has filed a Response In Opposition To Motion To Continue Trial (Docket No. 659), a Motion For Speedy Trial (Docket No. 660), and a Second Motion To Sever (Docket No. 661). Although counsel for Defendant Rivers attended the status conference, Defendant Rivers was unable to attend because the Court has ordered that he undergo a mental health evaluation. (Docket No. 619). Counsel indicated that it is unlikely the mental health evaluation could be completed in time for Defendant Rivers to be ready to proceed to trial on October 9, 2012.

Neither the Defendants nor the Government requested that they be given additional time to file a written response to the motion to continue.


The Court concludes that Defendant Benson's request for a continuance should be granted based on the recent addition of new charges through the Third Superseding Indictment; the recent appointment of current counsel for Defendant Benson; and the need for additional time to review the voluminous discovery and determine the necessity for filing pretrial motions. Accordingly, the Motion To Continue Trial Date (Docket No. 658) is GRANTED only as to Defendants Benson and Rivers.

The Court is mindful of the preference for jointly indicted defendants to be tried together in a conspiracy case unless there is a serious risk that a joint trial would compromise the specific trial right of one of the defendants. Fed. R. Crim. P. 14(a); Zafiro v. United States, 506 U.S. 534 (1993). In this case, however, a joint trial would implicate the interests of Defendants Benson and Rivers in being able to adequately prepare for trial, or implicate the interests of the remaining Defendants in a speedy trial. Balancing these interests warrants a severance of Defendants Benson and Rivers, and continuance of their trial to a later date to be set by contemporaneous order.

Accordingly, Defendant Smith's Motion For Speedy Trial (Docket No. 660) is MOOT. Defendant's Smith's Second Motion To Sever (Docket No. 661) is MOOT, and is denied without prejudice to being refiled as necessary.

The pretrial motion filing deadline for all Defendants going to trial on October 9, 2012 is extended to September 21, 2012.

It is so ORDERED.



TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE